

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Action No. 12-cv-00487-MOC-DCK

DAVID HOLMES, HERTA S. THEBERGE,
MARGUERITE K. POTTER, and the
MARGUERITE K. POTTER REVOCABLE
TRUST, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

BANK OF AMERICA, N.A., in its own
capacity and as successor by merger to BAC
Home Loans Servicing, L.P., SEATTLE
SPECIALTY INSURANCE SERVICES,
INC., in its own capacity and as successor in
interest to COUNTRYWIDE INSURANCE
SERVICES, INC., ILLINOIS UNION
INSURANCE COMPANY, and CERTAIN
UNDERWRITERS AT LLOYD'S LONDON,
including all underwriters who underwrote
force-placed wind insurance policies for Bank
of America, as the insured during the
applicable limitations period and LLOYD'S
UNDERWRITERS AT, LONDON,

Defendants.

PLAINTIFFS' NOTICE OF RECENT SUPPLEMENTAL AUTHORITY

Plaintiffs David Holmes, Herta S. Theberge, Marguerite K. Potter, and the Marguerite K. Potter Revocable Trust submit this Notice of Recent Supplemental Authority¹ to bring to the Court's attention two new decisions:

- *Martorella v. Deutsche Bank National Trust Company*, No. 12-80372-CIV-MARRA (S.D. Fla. March 18, 2013) (applying Florida law in denying motion to dismiss and sustaining claims, including claims for breach of the covenant of good faith and fair dealing and unjust enrichment, arising out of force-placed insurance practices) (attached hereto as Exhibit 1)
- *Karp v. Bank of Am., N.A.*, No. 8:12-cv-1700-T-17MAP (M.D. Fla. March 18, 2013) (applying Florida law in upholding breach of contract and breach of the implied covenant of good faith and fair dealing claims, but dismissing claim for unjust enrichment against the bank only based on plaintiff's admission that the mortgage agreement controlled the conduct at issue) (attached hereto as Exhibit 2)

Respectfully submitted,

Dated: March 19, 2013

/s/ Sarah W. Steenhoek

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¹ See *Sisk v. Abbott Laboratories*, No. 1:11CV159, 2012 WL 1164559, at *1 (W.D.N.C. Apr. 9, 2012) (“a notice of supplemental authority [is] commonly used in the federal court system to alert the Court to a decision another court issued after the close of the briefing period”).

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**ATTORNEYS FOR PLAINTIFFS
AND THE CLASSES**

CERTIFICATE OF SERVICE

I, Sarah W. Steenhoek, certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 19, 2013.

Dated: March 19, 2013

/s/ Sarah W. Steenhoek